

REMARKS

This amendment is in response to the Office Action dated November 30, 2006. This response is timely filed.

I. Status of the Amendments

Prior to this amendment, claims 38, 39, 41-50, 81-101, 104, and 106 were pending. By this amendment, claim 41 has been canceled without prejudice to refile, and claims 38, 81, 99 and 106 have been amended. Consequently, claims 38, 39, 42-50, 81-101, 104, and 106 are presently pending.

The amendments to independent claims 38 and 81 are the result of adding language from dependent claims 41 and 99, respectively. Therefore, no new searching is warranted and the amendments should be entered after final. The amendments to claim 106 simply seeks to add language similar to that added to independent claim 81. Therefore, these amendments should also be entered after final.

II. Response to November 30, 2006 Office Action

In the November 30, 2006 Office Action, claims 38, 39, and 41-46, 81-84, 90-101, 104 and 106 were rejected under 35 U.S.C. § 103 as allegedly unpatentable over Marnell (U.S. Patent No. 5,393,057) in view of Brune et al. (U.S. Patent No. 5,851,148), claims 47-50 over Marnell in view of Bruen, and in further view of Tallarida (U.S. Patent No. 3,618,952), and claims 85-89 over Marnell in view of Brune, and in further view of Baerlocher et al. (U.S. Patent No. 6,648,754). The rejections in the immediately proceeding office action included the same suggested prior art combinations, but with a patent to Weingardt (U.S. Patent No. 5,482,289) in place of the Brune. The office action has cited Brune "to teach no overlapping groups and different payouts for different sets of groups," according to the examiner. Applicant responds as follows.

Claim 38 has been amended to generally recite the subject matter previously recited in dependent claim 41, which is now canceled. The amended language is highlighted below and relates to apportioning the payouts from at least one of the first group of cells or

the second group of cells based on the number of times a gaming machine appears in that cell group.

A method of facilitating play of a group game, comprising:

- in each of a plurality of plays of individual games played by a plurality of players at respective gaming machines, generating an outcome for the individual game, the outcome being one of a plurality of outcomes including at least a first set of outcomes and a second set of outcomes;
- displaying a first group of cells and an associated first value payout, each cell in the first group of cells capable of being designated with a designator in response to any player of the plurality of players achieving an outcome in the first set of outcomes, wherein the designator indicates the gaming machine at which the outcome in the first set of outcomes was generated;
- designating a corresponding cell of the first group of cells with the designator responsive to an occurrence of any outcome from the first set of outcomes if the outcome generated for the individual game is from the first set of outcomes;
- displaying a second group of cells and an associated second value payout while displaying the first group of cells and the associated first value payout, each cell in the second group of cells capable of being designated with the designator in response to any player of the plurality of players achieving an outcome in the second set of outcomes, wherein the designator indicates the gaming machine at which the outcome in the second set of outcomes was generated,
- the second group of cells being non-overlapping with the first group of cells;
- designating a cell of the second group of cells with the designator responsive to an occurrence of any outcome from the second set of outcomes if the outcome generated for the individual game is from the second set of outcomes;
- providing the first value payout if each of the cells in the first group of cells is designated;
- providing the second value payout if each of the cells in the second group of cells is designated,
- wherein the first value payout is associated with only the first group of cells and is displayed in association with only the first group of cells and the second value payout is associated with only the second group of cells and is displayed in association with only the second group of cells; and

apportioning at least one of the first value payout among a first plurality of players or the second value payout among a second plurality of players, wherein apportioning the first value payout or the second value payout comprises apportioning based on the number of designations of each gaming machine in the designated cells of the corresponding first group of cells or the second group of cells.

The office action rejected claim 41 as obvious over a hypothesized combination of Marnell and Brune. None of these references, taken alone or in combination, teaches or suggests apportioning payout based on the number of appearances of a particular gaming machine with a cell group.

The office action cites to two portions of Marnell as teaching apportionment, Marnell 7:1-14 and Marnell 10:7-23. Neither description, however, teaches apportionment based on the number of times a gaming machine's designation has been stored in a cell group. The first citation merely states that all machines identified in a winning row will "participate in the payout or other award given as a result of completing the bingo game." There is no mention of apportioning the payout based on the number of times a game machine appears in a winning row. The second citation does describe a type of quantitative apportionment, but here as well that apportionment is not based on the number of times a gaming machine is listed in a particular row. Instead, Marnell does just the opposite. Marnell describes weighting the apportionment based on the quality of the hand that resulted in the particular gaming machine appearing in the winning row or column. In the example given, whichever game machine in a row had the best hand (e.g., four-of-a-kind), then that machine gets a higher proportion of the winnings over those machines with a lesser hand (e.g., two pair). Marnell nowhere describes apportioning based on the number of the times a gaming machine appears in a particular cell group, as is described and depicted (merely by the way of example and not limitation) in various examples of the present application.

Brune also fails to teach apportioning winnings differently based on the number of times a gaming machine's designation appears in a cell group. Brune primarily concerns single gaming machines with a single bonus display. There are discussions in Brune of multiple machine environments, for example those implemented over a WAN or LAN. See Brune 6:45-7:18. But in none of these environments is there a discussion of using the number of times a gaming machine appears in a cell group as the basis for apportioning a

payout of game machines identified (by designation) within the cell group. Brune describes distributing winnings to all participants or all game machines on a particular bank of machines in the facility. But there is no discussion of apportioning the payout for a primary/secondary game configuration based on the number of times a gaming machine in the primary configuration is listed in the secondary game's screen.

Neither Marnell nor Brune individually teach "apportioning at least one of the first value payout among a first plurality of players or the second value payout among a second plurality of players, wherein apportioning the first value payout or the second value payout comprises apportioning based on the number of designations of each gaming machine in the designated cells of the corresponding first group of cells or the second group of cells," as recited in claim 38. *A fortiori*, no combination of the two references (even indeed a combination of the two could be made, which the applicant does not concede) could be said to teach the recited subject matter. The rejection of previous dependent claim 41 is traversed. The rejection of independent claim 38 is traversed, along with the rejection of each of the claims depending therefrom.

Claims 38, 39 and 41 – 49 are in condition for immediate allowance.

Claim 81 has been amended to generally recite a portion of the subject matter previously recited in dependent claim 99. The amended language is highlighted below and relates to the ability of the group gaming method to designate multiple gaming machines in a single cell, such as is depicted in numerous examples of the present application including those of Figures 11 and 12 (by way of example not limitation).

81. (Previously presented) A group gaming method, comprising:
receiving wagers from a plurality of players at respective gaming machines;
determining outcomes of individual games played by the plurality of players at the respective gaming machines;
displaying an image representative of a group game played by the plurality of players at the respective gaming machines, wherein the image representative of the group game comprises a first plurality of cells and a first value payout corresponding

to a first group goal and a second plurality of cells and a second value payout corresponding to a second group goal, wherein each cell of the first plurality of cells and the second plurality of cells is attributable to any of the respective gaming machines of the plurality of players and the second group of cells is non-overlapping with the first group of cells;

for each outcome from a first set of outcomes, designating a cell of the first plurality of cells with a designation indicative of the respective gaming machine at which the outcome from the first set of outcomes was determined;

for each outcome from a second set of outcomes, designating a cell of the second plurality of cells with a designation indicative of the respective gaming machine at which the outcome from the second set of outcomes was determined;

providing a first value payout if the first group goal is achieved through the designation of each of the first plurality of cells, the first value payout associated with only the first plurality of cells;

providing a second value payout different from the first value payout if the second group goal is achieved through the designation of each of the second plurality of cells, the second value payout associated with only the second plurality of cells; and

displaying the first value payout in association with only the first group of cells and the second value payout in association with only the second group of cells, wherein each cell is capable of being designated to multiple gaming machines.

Figure 11 illustrates an example implementation of a cell 204c that has been populated with two designators 212, one for each of the game machines representing “wins” by two players. Figure 12 illustrates another example implementation where four players won at the same time, so that each of the winners is designated in the corresponding cell for potential payout later, i.e., if all cells in the grouping are populated first. In these examples, as described in the specification, not only may the payout be apportioned across the winners based on the number of times they appear across all cells, the system may apportion the winnings attributed to a single cell among all the previous winners designated in that cell. For example, in Figure 11, each cell in the winner cell grouping may collect 1/5 of the winning payout. The cell 204c designating two winners would result in each winner receiving half of that proportion, or 1/10 of the total payout associated with that particular cell group.

The office action has failed to set forth any grounds for rejecting claim independent claim 99, which previously recited the now-amended-into-claim-81 language “wherein each cell is capable of being designated to multiple gaming machines.” Therefore, applicant respectfully traverses the rejection of claim 99 and the finality of the indication of that rejection. The office action is procedurally improper because it does not address claim 99. The examiner indicates why it is believed that the other claims should be rejected, but the examiner no where indicates where it is believed that claim 99 is taught or suggested by the prior art. As a result, if the office action intended to maintain a rejection based on the now amended claim 81, the examiner should remove the outstanding office action and reissue a new office action, along with a new response date, addressing where it is believed that the subject matter of a cell being capable of designating multiple gaming machines is taught in the prior art. In either case, the office action is improper for failing to properly reject or allow claim 99.

Not only does the office action fail to state where the recited subject matter is taught in the prior art, a careful review of the prior art shows that none of the prior teaches or suggests the recited subject matter. Brune is not cited as teaching or suggesting applying any gaming machine specific designation within a cell. Instead, Brune primarily relates to a single machine application, and as noted above the multiple-machine applications described in Brune do not detail the recited subject matter. Marnell does not mention multiple designations in a cell at all, either. In fact, the only discussion in Marnell addressing the possibility of different machines hitting the same cell value expressly states that in such a situation Marnell will **not** display two winners in a cell. Doing so after all would be contrary to a bingo-style game (which Marnell is) because in Bingo once an location on the board has been hit by a player that location ceases to be available for further hitting. As Marnell says, if a second player hits on an entry already filled on the bingo matrix, for example with the common occurrence of two pair, the “bingo microprocessor 69 will refuse entry, deactivate or refuse to active keypad 54, and signal the player that the poker hand which occurred cannot be entered” into the matrix:

It is possible in both stand-alone and carousel systems that a player will be unable to make a valid entry in the bingo matrix because of prior entries and the nature of the poker hand which

occurs. Two pairs, for example, will occur sufficiently often that the possible spaces for valid input may be filled. In such a case the bingo microprocessor 69 will refuse entry, deactivate or refuse to activate keypad 54, and signal the player that the poker hand which occurred cannot be entered in matrix 51b. For automatic entry apparatus such as gaming apparatus 21 and 21a, the primary payout will be made but no entry into the bingo matrix will occur.

The game machine may still receive a payout, but there is no designation visible to the user. That is expressly prevented by Marnell.

Thus, as shown in the foregoing, not only does none of the art of record teach a gaming system "wherein each cell is capable of being designated to multiple gaming machines," Marnell in fact expressly teaches away from such capability. The rejections of independent claim 81 and the claims depending therefrom are therefore respectfully traversed in light of the foregoing. Each of claims 81 and claims 82-101 and 104 depending therefrom are in condition of immediate allowance.

Claim 106 has been amended to generally recite that each cell of the first and second plurality of cells is capable of being designated to multiple gaming machines. For similar reasons to that discussed above with respect to claim 81, claim 106 is in condition for immediate allowance, as well.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Dated: February 27, 2007

Respectfully submitted,

By 

Paul B. Stephens

Registration No.: 47,970

MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant